

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FREDERICK WAYNE SMITH,
Plaintiff,
v.
KATHLEEN ALLISON, et al.
Defendants.

Case No. 1:22-cv-01580 JLT SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DENYING
PLAINTIFF’S MOTION FOR INJUNCTIVE
RELIEF

(Docs. 29, 31)

Plaintiff is proceeding pro se in this action filed pursuant to 42 U.S.C. § 1983 and seeks injunctive relief. The assigned magistrate judge found Plaintiff failed to demonstrate that “failed to establish the imminent irreparable harm required to support a preliminary injunction.” (Doc. 31 at 3.) The Court observed: “Plaintiff contends only that on or around July 16, 2023, he was transferred to North Kern State Prison where he was previously stabbed, but he is now housed at Kern Valley State Prison.” (*Id.*) The magistrate judge acknowledged Plaintiff may fear for his future safety, but he fails “to establish that he faces the immediate and credible threat of irreparable harm necessary to justify injunctive relief at this stage of the case.” (*Id.*) The magistrate judge determined the “risk of injury [is] speculative.” (*Id.*) Thus, the magistrate judge recommended the requested relief be denied. (*Id.* at 5.)

In his objections, Plaintiff contends he was also stabbed at Kern Valley State Prison in 2010, and the magistrate judge erred in recommending injunctive relief be denied. (Doc. 35 at 2-

3; *see generally* Doc. 35 at 2-10.) However, Plaintiff does not identify any specific acts supporting a conclusion that he is in “immediate and irreparable injury, loss, or damage” by the defendants, as required by Rule 65 of the Federal Rules of Civil Procedure. *See* Fed.R.Civ.P. 65(b)(1)(A). There are concrete facts alleged connecting the prior stabbing to the allegations in this complaint, or these defendants. Rather, Plaintiff appears to reiterate his general fear for his safety based on the prior incidents. As the magistrate judge determined, such generalized fear is insufficient to support the request for injunctive relief and transfer from his current facility.

According to 28 U.S.C. § 636(b)(1)(C), this Court conducted a *de novo* review of this case. Having carefully reviewed the entire matter, including Plaintiff’s objections, the Court concludes the Findings and Recommendations are supported by the record and proper analysis.

Thus, the Court hereby **ORDERS**:

1. The Findings and Recommendations issued on August 24, 2023 (Doc. 31) are **ADOPTED** in full.
2. Plaintiff’s request for injunctive relief (Doc. 29) is **DENIED**.

IT IS SO ORDERED.

Dated: **October 3, 2023**


UNITED STATES DISTRICT JUDGE